



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201305015

NOV 05 2012

U.I.L. 402.08-00

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XXXXXXXXXXXXXXXXXX

T:EP:RA:T3

Legend:

Taxpayer A = XXXXXXXXXXXXXXXX
Individual B = XXXXXXXXXXXXXXXX
Plan X = XXXXXXXXXXXXXXXX
IRA Y = XXXXXXXXXXXXXXXX
Company N = XXXXXXXXXXXXXXXX
Amount A = XXXXXXXXXXXXXXXX

Dear xxxxxxxx:

This is in response to your request dated xxxxxxxx, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Internal Revenue Code (the Code).

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that on xxxxxxx, he received a distribution from Plan X totaling Amount A. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to the medical condition of his mother-in-law, Individual B, which impaired his ability to accomplish a timely rollover.

On xxxxxxxx, Taxpayer A received a distribution from Plan X totaling Amount A which he intended to rollover into an Individual Retirement Annuity (IRA) with Company N. However, immediately after Taxpayer A received the distribution,

Taxpayer A's mother-in-law, Individual B, became very ill in another city. Individual B was diagnosed with an untreatable terminal illness and was admitted to the hospital just before the end of 60 day period. She passed away shortly after the expiration of the 60-day rollover period. During the 60-day period Taxpayer A was consumed in travelling with his wife to be with Individual B and attending to her medical care.

Taxpayer A was in such disarray and stressed that he could not attend to making a rollover of Amount A within the 60-day rollover period as he intended. Amount A was rolled over on xxxxxxxxxxxx, into IRA Y.

Based on the above facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement with respect to the distribution of Amount A.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be included in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Section 402(c)(4) of the Code provides that an eligible rollover distribution shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Code.

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under section 402(c) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to his involvement in dealing with the medical condition of Individual B which impaired his ability to accomplish a timely rollover.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount A. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met, the contribution of Amount A to IRA Y on xxxxxxxx, will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact xxxxxxxxxxxxxxxxxxxxxx, SE:T:EP:RA:T3, at () :

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of letter ruling
Notice of Intention to Disclose